

JAMES M. WAGSTAFFE (95535)  
IVO LABAR (203492)

**KERR & WAGSTAFFE LLP**  
100 Spear Street, Suite 1800  
San Francisco, CA 94105-1528  
Telephone: (415) 371-8500  
Fax: (415) 371-0500

Attorneys for Defendant  
VICTOR CONTE

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

SHANE D. MOSLEY, SR.,

Plaintiff,

vs.

VICTOR CONTE,

Defendant.

Case No. C 08-01777 JSW

**[PROPOSED] ORDER GRANTING  
MOTION TO STRIKE COMPLAINT  
PURSUANT TO CALIFORNIA'S ANTI-  
SLAPP STATUTE [C.C.P. §425.16]  
STRATEGIC LAWSUIT AGAINST  
PUBLIC PARTICIPATION ("SLAPP")**

Hearing Date: August 22, 2008  
Time: 9:00 a.m.  
Courtroom: 2

HON. JEFFREY S. WHITE

**PROPOSED ORDER**

On August 22, 2008 this matter came before the Court on Defendant Victor Conte's Motion to Strike Complaint Pursuant to California's Anti-SLAPP Statute [C.C.P. §425.16] Strategic Lawsuit Against Public Participation ("SLAPP"). Having read and considered the papers submitted by the parties, as well as the arguments of counsel at the hearing, and being fully informed, the Court GRANTS Defendant's motion.

Based on the reasoning set forth in defendant Victor Conte's moving papers and the evidence submitted by the parties, Defendant's statements are both written statements made in a public forum in connection with an issue of public interest as well as a an exercise of his free speech in connection with an issue of public interest. Therefore, Defendant's statements arise from Defendant's protected activities and fall within the purview of the anti-SLAPP statute. Accordingly, Plaintiff must establish a reasonable probability he will prevail on the merits.. Plaintiff has failed to show that he will prevail on the merits because (1) Defendant's allegedly defamatory statements are statements of opinion, which are not actionable; (2) Defendant's statements are substantially true, and therefore not false for purposes of defamation; (3) Defendant's statements are privileged under California Civil Code section 47(c); and (4) Plaintiff has not demonstrated that he can meet his burden of proving, by clear and convincing evidence, that Defendant made the allegedly defamatory statements with actual malice.

Accordingly, the Court GRANTS Defendant's motion, and Plaintiff's Complaint is hereby stricken.

**IT IS SO ORDERED.**

DATED:

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HON. JEFFREY S. WHITE  
U.S. DISTRICT COURT